

# **NOTICE OF INTENT TO UPDATE EMERGENCY DEPARTMENT AND AMBULATORY SURGERY REGULATIONS TO INCORPORATE NATIONAL STANDARD UPDATES**

Title 22 California Code of Regulations,

Division 7, Chapter 1 – *Health Planning and Resources Development*,  
Amend Article 5, *Certificate of Need*

and

Division 7, Chapter 10 - *Health Facility Data*,  
Amend Article 8, *Patient Data Reporting Requirements*,  
to incorporate National Standard Updates

**NOTICE IS HEREBY GIVEN** that the Office of Statewide Health Planning and Development (OSHPD) proposes to amend Sections 97210, 97227, 97240, 97241, 97244, 97246, 97250, 97260, 97261, and 97264 and adopt Section 97266 of Title 22, Division 7, Chapter 10, Article 8 of the California Code of Regulations (CCR). The proposed changes also amend Section 90417 of Title 22 Division 7, Chapter 1, Article 5 of the CCR. The proposed effective date is upon filing with the Secretary of State.

**NOTICE IS HEREBY GIVEN** that no public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Section 11346.8(a) of the Government Code. The request for a public hearing must be received in writing by the OSHPD contact person designated below no later than 15 days prior to the close of the written comment period.

**NOTICE IS ALSO GIVEN** that any interested person may present statements or arguments relevant to the proposed regulatory changes by a written communication addressed to, and received by, OSHPD's contact person identified below on or before 5 p.m. on September 4, 2006, which is hereby designated as the close of the written public comment period. If this day is a Saturday, Sunday, or state holiday, the comment period will close at 5pm on the next business day.

## **CONTACT PERSON**

Written communications may be sent to the primary contact person, Candace L. Diamond, Manager, via e-mail at [cdiamond@oshpd.ca.gov](mailto:cdiamond@oshpd.ca.gov), by writing to the Patient Data Section, Office of Statewide Health Planning and Development, 818 K Street, Room 100, Sacramento, California 95814 or via facsimile at (916) 327-1262. Written communications may also be sent to the backup contact person Irene Ogbonna AGPA, via e-mail at [iogbonna@oshpd.ca.gov](mailto:iogbonna@oshpd.ca.gov). Candace Diamond may be reached by calling (916) 324-2712, Irene Ogbonna may be reached by calling (916) 324-3851.

Comments regarding the regulations may be sent to Candace L. Diamond, by e-mail [cdiamond@oshpd.ca.gov](mailto:cdiamond@oshpd.ca.gov), facsimile at (916) 327-1262, hand delivery, or mail, must be received by the Patient Data Section, 818 K Street, Room 100, Sacramento, CA 95814, by 5 p.m. on September 4, 2006, which is hereby designated as the close of the written public comment period.

## **AUTHORITY AND REFERENCE**

Authority for the proposed regulations is provided by the California Health and Safety Code, Sections 127150, 128700, 128755, and 128810. The reference citations are as follows: the proposed regulations implement, interpret, or make specific Health and Safety Code Sections 127280, 128700, 128735, 128736, 128737, 128760, and 128770.

## **TEXT OVERVIEW and POLICY STATEMENT**

OSHPD's statutory mandate is to use national standards in data collection programs where appropriate. Proposed regulation amendments are made necessary by changes in the data content of the 837 Health Care Claim used for Emergency Department (ED) and Ambulatory Surgery (AS) Disposition of Patient codes and descriptions. Changes were made by the National Uniform Billing Committee (NUBC) as the federally-established Designated Standards Maintenance Organization.

The California Health Policy and Data Advisory Commission (CHPDAC) advises OSHPD on health policy and health information issues. Commissioners are appointed by the Governor, Speaker of the Assembly and Senate Rules Committee to represent major stakeholders in health care delivery, including physicians, hospitals, long-term care facilities, business and labor, health service plans, ambulatory surgery centers, and the general public. The CHPDAC reviewed and approved these regulation changes at its public meetings on February 27 and April 17, 2006.

Attending to advice from these key stakeholders has enabled OSHPD to minimize health facility data reporting burdens by aligning state requirements and definitions with other established governmental mandates. The regulation package accomplishes this

by utilizing existing national standards for all ED and AS data elements. The new and revised Disposition of Patient codes and descriptions are already required on electronic claims as part of national standards maintained by the NUBC. These proposed changes to MIRCal save data providers the time and expense of creating and maintaining separate reporting systems to capture and report patient data to OSHPD.

The amount of the special fee assessment for licensed surgical clinics was set in statute for the first two years of AS data program operation. OSHPD was given the responsibility to determine the ongoing fee, not to exceed fifty cents per reported encounter, but sufficient to pay for functions required by statute. These regulations specify the notification timeline and procedures for paying the fee.

A new No Data to Report Form is incorporated by reference. It may be submitted to OSHPD via hardcopy or used online within MIRCal. Some facilities have no records to report in a given report period and will be allowed to fulfill their obligation to report by submitting the information requested on the new form.

The regulation changes clarify reporting of External Cause of Injury codes (E codes) and require use of newly automated communication features of the Medical Information Reporting for California (MIRCal) system.

Having ten report periods in a calendar year has made it necessary for OSHPD to close reporting systems for each report period on a prescribed timeline in order to meet the mandate of providing timely completed data sets for dissemination. This addition of report periods and tasks has created a need to define a closure date.

Regulation text changes remove the requirement to provide a reason for the use of extension days and allow reporting facilities to request an extension online within the MIRCal system.

## **INFORMATIVE DIGEST/SUMMARY OF PROPOSED CHANGES**

Proposed regulation amendments are made necessary by changes in the national standard for Patient Status Code, required for inpatient and outpatient healthcare claims. Changes to CCR Section 97264 bring the Definition of Data Element for ED and AS - Disposition of Patient back into conformity with the updated content of the 837 Health Care Claim. Proposed changes establish an ongoing annual fee assessment amount for surgical clinics, implement a No Data to Report Form, clarify the reporting of External Cause of Injury codes (E codes), provide newly automated communication features of the Medical Information Reporting for California (MIRCal) system, remove the requirement to provide a reason for the use of limited extension days, and update specified forms.

The following new and revised forms are available for review:

Section 97240. Request for Modifications to Patient Data Reporting.  
No Data to Report form (OSHDP 2005.1) Revised 09/26/2005

Section 97241. Extensions of Time to File Reports.  
Patient Data Reporting Extension Request (DD 1805) Revised 06/09/2005

Section 97244. Method of Submission.  
Format and File Specifications for MIRCAl Online Transmission, Emergency  
Department and Ambulatory Surgery, Dated January 2006  
Emergency Care Data Record Manual Abstract Reporting Form (1370.ED), Dated  
01/01/2006  
Ambulatory Surgery Data Record Manual Abstract Reporting Form (1370.AS), Dated  
01/01/2006

Section 97246. Data Transmittal Requirements.  
Agent Designation Form (OSHDP 1370.3), Revised 06/09/2005  
Individual Facility Transmittal Form (OSHDP 1370.1), Revised 06/09/2005  
Designated Agent Transmittal Form (OSHDP 1370.2), Revised 06/09/2005  
User Account Administrator Agreement Form (OSHDP 2002.1), Revised 01/05/2006  
Designated Agent User Agreement Form (OSHDP 2002.2), Revised 01/05/2005

## **AVAILABILITY OF THE TEXT OF PROPOSED REGULATIONS, INITIAL STATEMENT OF REASONS, AND RULEMAKING FILE**

### **INTERNET AVAILABILITY**

Materials regarding this notice of proposed changes, the text of the proposed regulations, the Initial Statement of Reasons, and all of the new or amended forms, may be accessed at the OSHPD web site [www.oshpd.ca.gov/hid](http://www.oshpd.ca.gov/hid). The Final Statement of Reasons and amended Regulations will be posted if changes are made.

### **HARDCOPY AVAILABILITY**

Materials regarding this notice of proposed changes, the text of the proposed regulations, the Initial Statement of Reasons, and all of the new or amended forms, may be accessed in person at in the Patient Data Section, Office of Statewide Health Planning and Development, 818 K Street, Room 100, Sacramento, California 95814. The Final Statement of Reasons and amended Regulations will also be available if changes are made.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

The text of proposed changes or modifications to the regulations will be available from

the OSHPD website [www.oshpd.ca.gov/hid](http://www.oshpd.ca.gov/hid) and will be available from OSHPD upon request. The text of any modified regulation, unless the modification is non-substantial or solely grammatical in nature, will be made available on the website at least 15 days prior to the date that OSHPD adopts the regulation. The changes will be underlined where text is added and ~~struck through~~ where text is deleted. OSHPD will accept written comments on the modified regulations for 15 days after the date that they are made available. OSHPD may adopt, amend, or repeal the forgoing proposal substantially as set forth without further notice.

#### ALTERNATIVES CONSIDERED

Pursuant to Government Code 11346.5 (a)(13) OSHPD must determine that no reasonable alternative considered by OSHPD or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected persons than the proposed action.

#### FISCAL IMPACT ESTIMATES

Local Mandate Determination (Cal. Gov't Code 11346.5(a)(5)): As the proposed updates will impose requirements upon all California hospitals, and all licensed ambulatory Surgery clinics, and will only incidentally affect governmental hospitals, there is no local mandate created by the proposed revisions that would require state reimbursement.

1. Estimated of Cost or Savings to Any State Agency (Cal. Gov't Code 11346.5(1)(6)): None.
2. Cost to Any Local Agency or School District That is Required to be Reimbursed by the State (Cal. Gov't Code 11346.5(1)(6)): None.
3. Non-Discretionary Cost or Savings Imposed on Local Agencies (Cal. Gov't Code 11346.5(1)(6)): None.
4. Cost or Savings in Federal Funding to the State (Cal. Gov't Code 11346.5(1)(6)): None.
5. Impact on Housing Costs (Cal. Gov't Code (11346.55)): None.
6. Potential Cost Impact on Private Persons or Affected Business, (Gov't Code 11346.5(a)(9)): OSHPD is not aware of any cost impacts that a representative private person or a business would necessarily incur in reasonable compliance with the proposed action.

7. Small Business Impact:: These proposed regulations may have an effect on small business.
8. Potential Adverse Economic Impact on Businesses (Cal. Gov't Code 11346.53): None.

OSHPD has determined that the regulations would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

## **DETERMINATIONS**

OSHPD has determined that the regulations would not significantly affect the following:

1. The creation or elimination of jobs within the State of California.
2. The creation of new businesses or the elimination of existing businesses within the State of California.
3. The expansion of businesses currently doing business within the State of California.

Dated: July 10, 2006

Sacramento, California

Candace L. Diamond  
Manager, Patient Data Section  
Healthcare Information Division